

NO. 20649

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# United States Court of App

FOR THE NINTH CIRCUIT

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RAMON NOVARRO,

Appellant,

vs.

PETER PITCHESS, Sheriff of the  
County of Los Angeles, State of  
California, et al.,

Appellees.

Appeal from denial of petition for writ of habeas  
by the United States District Court, Southern  
of California, Central Division.

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REPLY BRIEF OF APPELLANT

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FILED

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JOHN N. FROLICH  
411 West Seventh Street  
Los Angeles, California  
MAdison 2-8104  
Attorney for Appella

WM. B. LUCK, CLERK



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TO THE HONORABLE RICHARD H. CHAMBERS, CHIEF JUDGE  
OF THE UNITED STATES COURT OF APPEALS FOR  
THE NINTH CIRCUIT, AND TO THE HONORABLE  
CIRCUIT JUDGES:

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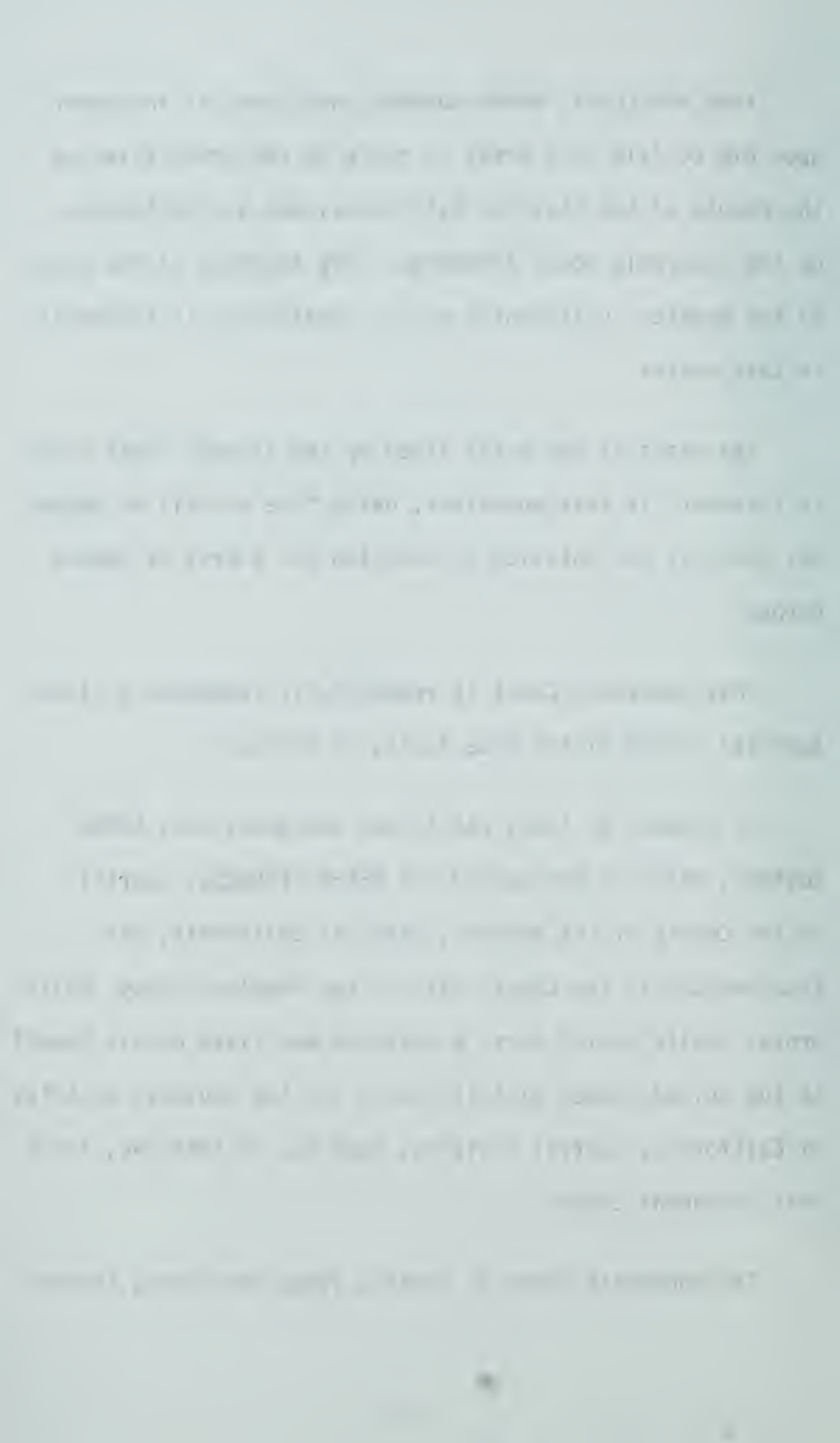
YOUR APPELLANT, RAMON NOVARRO, has found it incumbent upon him to file this brief in reply to the brief filed by the People of the State of California, who are designated by the Honorable Roger Arnebergh, City Attorney of the City of Los Angeles, California, as the "Real Party in Interest" in this matter.

The basis of the brief filed by the alleged "Real Party in Interest" is that appellant, being free on bail on August 20, 1965, is not entitled to petition for a writ of habeas corpus.

This Honorable Court is respectfully requested to take judicial notice of the true facts, as follows:

On October 4, 1962, petitioner and appellant, RAMON NOVARRO, while in the custody of PETER PITCHESS, Sheriff of the County of Los Angeles, State of California, was incarcerated in the County Jail of Los Angeles County, California. While behind bars, a petition was filed on his behalf in the United States District Court for the Southern District of California, Central Division, Case No. 62-1358-JWC, for a writ of habeas corpus.

The Honorable Jesse W. Curtis, judge presiding, issued



an order ordering the petitioner, RAMON NOVARRO, released from the custody of PETER PITCHESS, Sheriff of Los Angeles County, pending hearing and determination of said petition of RAMON NOVARRO for a writ of habeas corpus.

On October 26, 1962, the petition of RAMON NOVARRO was denied for failure to exhaust his State court remedies, the petitioner not having, as yet, filed a petition for a writ of certiorari with the United States Supreme Court.

Coincident with the ruling in said matter, Judge Jesse W. Curtis issued a restraining order for a period of thirty days against PETER PITCHESS, Sheriff of Los Angeles County, in order that RAMON NOVARRO, the petitioner, be given the opportunity of filing a petition for a writ of certiorari with the United States Supreme Court and a new petition in the United States District Court for the Southern District of California, Central Division, staying and enjoining PETER PITCHESS, Sheriff of Los Angeles County, until such time that the United States Supreme Court shall have had the opportunity of ruling on the petition for a writ of certiorari.

A new petition by petitioner RAMON NOVARRO was filed in the same court, bearing the same title as Case No. 62-1358-JWC

It was a very long time ago, I think, that I was  
in the city of London, and I was very much  
interested in the people and the things I saw.  
I was very much interested in the people and the things I saw.

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and is designated Case No. 62-1532-JWC.

This action was pending, and upon notification that petitioner's application for a writ of certiorari to the United States Supreme Court had been denied, counsel for petitioner notified the court and oral permission was requested to amend the petition for a writ of habeas corpus to set forth the additional fact that the United States Supreme Court had denied the petition for a writ of certiorari from the Supreme Court of the State of California.

It was suggested by the court that instead of an amendment, a new petition be filed; and, therefore, the present petition for a writ of habeas corpus, bearing the same title as the original case, and known as Case No. 65-1261-JWC, was filed. In said case, the Honorable Jesse W. Curtis issued a restraining order and permitted the petitioner, RAMON NOVARRO, to be on bail, as had previously been ordered.

Subsequently, on January 7, 1966, Case No. 62-1532-JWC, was dismissed for want of prosecution.

The present matter before this Honorable Court is an appeal from the denial of petitioner's petition for a writ of habeas corpus, No. 65-1261-JWC. This petition is a



continuation of the original petition, No. 62-1358-JWC and 62-1532-JWC.

Petitioner RAMON NOVARRO has complied with the request of the Honorable Jesse W. Curtis by filing a new petition, instead of amending his old petition.

The alleged "Real Party in Interest" seeks to punish RAMON NOVARRO for complying with the desires and wishes of The Honorable Jesse W. Curtis, Judge of the United States District Court for the Southern District of California, Central Division.

Having failed to file a brief on the merits, in opposition to appellant-petitioner NOVARRO's original brief before this Honorable Court, the City Attorney of the City of Los Angeles has instead attempted to mislead this Honorable Court by omitting facts which, if he does represent the "Real Party in Interest," he should be well aware. Further, it is appellant-petitioner's position that the brief filed on his behalf cannot possibly be answered, since the constitutional questions presented therein are clear and obviously in his favor.

That the Honorable Leon R. Yankwich, Judge of the



United States District Court for the Southern District of California, Central Division, subsequently assigned to this case, was (and in all probability is still) willing to allow petitioner NOVARRO to amend his petition so as to allow a hearing on the merits, is indication enough that neither the appellees nor the alleged "Real Party in Interest" care to subject themselves to such a hearing. Rather, they would attack appellant-petitioner on a technical ground which is totally without merit, in that they know that the original action was commenced in the United States District Court for the Southern District of California, Central Division, while petitioner NOVARRO was incarcerated and that the present action is a mere continuation of the suit originally filed in the said District Court.

Respectfully submitted,

JOHN N. FROLICH

Attorney for Appellant



C E R T I F I C A T E

I certify that in connection with the preparation of this brief, I have examined Rules 18 and 19 of the United States Court of Appeals for the Ninth Circuit and that in my opinion the foregoing brief is in full compliance with those rules.

DATED: August       , 1966, at Los Angeles, California.

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Signature of Counsel

La Commission des affaires indiennes a l'honneur de vous adresser ci-joint le rapport qu'elle a préparé sur les affaires indiennes pendant l'année 1900. Ce rapport est le premier de la série et il est publié en français et en anglais.

Respectueusement,  
Le Secrétaire des Affaires Indiennes, J. A. G. B.

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Imprimé par la Commission des Affaires Indiennes



PROOF OF SERVICE BY MAIL

STATE OF CALIFORNIA                    )  
  ) ss.  
County of Los Angeles                 )

I, the undersigned, say: I am and was at all times herein mentioned, a citizen of the United States and employed in the County of Los Angeles, over the age of eighteen years and not a party to the within action or proceeding; that

My business address is 215 West Fifth Street, Los Angeles, California 90013, that on August       , 1966, I served the within REPLY BRIEF OF APPELLANT (No. 20649) on the following named parties by depositing a copy thereof, inclosed in a sealed envelope with postage thereon fully prepaid, in the United States Post Office in the City of Los Angeles, California, addressed to said parties at the addresses as follows:

Roger Arnebergh  
City Attorney  
City of Los Angeles  
1902 City Hall  
Los Angeles, California

Harold W. Kennedy  
County Counsel  
County of Los Angeles  
648 Hall of Administration  
Los Angeles, California

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August       , 1966, at Los Angeles, California.

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D. A. Standefer

Orig. & 20 copies:

Clerk, U. S. Court of Appeals  
For the Ninth Circuit  
U. S. Post Office and Court House Bldg.  
San Francisco, California 94101

Subscribed and sworn to before me  
this       day of August, 1966.

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Notary Public in and for  
the State of California

